

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above. This dispute was received on 04/01/03.

## I. DISPUTE

Whether there should be reimbursement in the amount of \$16,872.00 for Ambulatory Surgical Care Center for spinal surgery the date of service 04/02/02.

## II. RATIONALE

The Respondent denied services as “Preauth required but not requested.”

Rule 133.206, (prior to 01/01/02) required the Respondent to respond to a TWCC-53 recommendation for spinal surgery, by either scheduling a second opinion appointment or waive the second opinion and agree with the recommendation for surgery. Failure to respond automatically waives the right for a second opinion making the carrier liable. The Respondent did not respond to the request. The Commission sent a letter dated 12/06/02 to the Requestor indicating that the Respondent had failed to respond with either a waiver or schedule a second opinion appointment. Therefore, the Respondent is liable for the recommended spinal surgery according to rule 133.206(b)(1)(B)(C), therefore, services will be reviewed per MFG.

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Code	MAR\$	REFERENCE	RATIONALE:
04/02/02	63047	\$3,850.00	\$0.00	A	\$3,540.00	MFG; SGR (I)(D)(1)(a)	The operative report supports hemilaminectomy at L4-5, L5-S1-therefore, reimbursement is recommended in the amount of <b>\$3,540.00</b> for one body area.
04/02/02	22842	\$3,600.00	\$0.00	A	\$3,400.00	MFG SGR (I)(D)(2) (I)(E)(1)	22842 is a procedure that has already been reduced. Therefore reimbursement is recommended in the amount of <b>\$3,400.00</b> .
04/02/02	22612-51	\$2,471.00	\$0.00	A	\$2,529.00	MFG SGR (I)(D)(b)(i) (I)(E)(2)(b)	According to the referenced Rule, “the secondary or subsequent procedures are performed through the same incision and related to the primary procedure.” The procedure will be reduced 50% of the MAR for secondary or subsequent procedures value. The appropriate reimbursement for arthrodesis is 50% of MAR (\$2,529.00)=\$1,264.50. Therefore reimbursement is recommended in the amount of <b>\$1,264.50</b> .

04/02/02	22899	\$1,558.00	\$0.00	A	DOP	MFG; SGR (I)(D)(1)(b)	This is an unlisted procedure and has no MAR value. The operative report indicates that this was a posterior approach and a paramesh kidney shaped cage was inserted at L5-S1, verifying the charge for the CPT code listed. Therefore, based on the Operative report, reimbursement is recommended in the amount of <b>\$1,558.00.</b>
04/02/02	22899	\$1,558.00	\$0.00	A	DOP	MFG; SGR (I)(D)(1)(b)	This is an unlisted procedure and has no MAR value. The operative report indicates that this was a posterior approach and a secondary paramesh kidney shaped cage was inserted at L4-5, verifying the charge for CPT code 22899. Therefore, based on the operative report reimbursement is recommended in the amount of <b>\$1,558.00.</b>
04/02/02	63048	\$775.00	\$0.00	A	\$708.00	MFG SGR (I)(D)(2)	63048 is a procedure that has already been reduced. The operative report indicates a hemilaminectomy was performed at two levels. Therefore reimbursement is recommended in the amount of <b>\$708.00.</b>
04/02/02	22650	\$775.00	\$0.00	A	\$637.00	MFG SGR (I)(D)(2)	22650 is a procedure that has already been reduced. Therefore reimbursement is recommended in the amount of <b>\$637.00.</b>
04/02/02	22820	\$750.00	\$0.00	A	\$425.00	MFG SGR (I)(D)(2)	The operative indicates that harvest of autologous bone was carried out from the right iliac crest. 22820 is a procedure that has already been reduced. Therefore reimbursement is recommended in the amount of <b>\$425.00.</b>
04/02/02	63047-85	\$385.00	\$0.00	A	\$3,540.00	MFG; SGR (I)(D)(4)(c)	The PA attendance was to be documented 70% of the time according to the –80 modifier. The documentation for the time of the PA was not listed in the operative report. Therefore, reimbursement is <b>not</b> recommended.
04/02/02	22612-51-85	\$247.00	\$0.00	A	\$2,529.00	MFG; SGR (I)(D)(4)(c)	The PA attendance was to be documented 70% of the time according to the –80 modifier. The documentation for the time of the PA was not listed in the operative report. Therefore, reimbursement is <b>not</b> recommended.
04/02/02	22899-85	\$156.00	\$0.00	A	DOP	MFG; SGR (I)(D)(1)(b)	The PA attendance was to be documented 70% of the time according to the –80 modifier. The documentation for the time of the PA was not listed in the operative report. Therefore, reimbursement is <b>not</b> recommended.

04/02/02	22899-85	\$156.00	\$0.00	A	DOP	MFG; SGR (I)(D)(1)(b)	The PA attendance was to be documented 70% of the time according to the –80 modifier. The documentation for the time of the PA was not listed in the operative report. Therefore, reimbursement <b>is not</b> recommended.
04/02/02	63048-85	\$78.00	\$0.00	A	\$708.00	MFG; SGR (I)(D)(4)(c)	The PA attendance was to be documented 70% of the time according to the –80 modifier. The documentation for the time of the PA was not listed in the operative report. Therefore, reimbursement <b>is not</b> recommended.
04/02/02	22650-85	\$78.00	\$0.00	A	\$637.00	MFG; SGR (I)(D)(4)(c)	The PA attendance was to be documented 70% of the time according to the –80 modifier. The documentation for the time of the PA was not listed in the operative report. Therefore, reimbursement <b>is not</b> recommended.
04/02/02	22820-85	\$75.00	\$0.00	A	\$425.00	MFG; SGR (I)(D)(4)(c)	The PA attendance was to be documented 70% of the time according to the –80 modifier. The documentation for the time of the PA was not listed in the operative report. Therefore, reimbursement <b>is not</b> recommended.
<b>Totals</b>		\$16,719.00	\$0.00			The Requestor <b>is</b> entitled to reimbursement in the amount of <b>\$13,090.50</b> .	

### III. DECISION & ORDER

Based upon the review of the disputed healthcare services within this request, the Medical Review has determined that the requestor **is** entitled to reimbursement for spinal surgery. Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit **\$13,090.50** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this Order.

The above Findings, Decision and Order are hereby issued this 13th day of October 2003.

Michael Bucklin  
Medical Dispute Resolution Officer  
Medical Review Division

David R. Martinez  
Manager Dispute Resolution  
Medical Review Division

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